



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 5395-99
15 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 17 September 1971 at the age of 20. Your record reflects that on 8 January 1973 you were convicted by special court-martial (SPCM) of a 217 day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for three months, forfeitures totalling \$525, reduction to paygrade E-1, and a bad conduct discharge (BCD). Part of the confinement and the discharge were suspended for six months. On 18 March 1973 you began a 121 day period of UA that was not terminated until you were apprehended by the Federal Bureau of Investigation (FBI) on 17 July 1973.

On 14 September 1973 the partial suspension of your sentence was vacated due to your continued misconduct. Shortly thereafter, on 19 September 1973, you began a 209 day period of UA that was not terminated until you were apprehended by the FBI on 16 April 1974. Subsequently, the BCD was approved at all levels of review and ordered executed. On 1 May 1974 you received a BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. The Board also considered your contentions that you did not receive legal representation/counsel until the day of your court-martial, sought counselling, and had mental problems. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent and lengthy periods of UA. The Board noted that there is no evidence in your record and you submitted none, to support your contentions of lack of sufficient legal representation or mental problems. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director